

REMARKS

In the Office Action of October 3, 2005, claims 1-29 are pending. Claims 1-8, 28, and 29 are allowed. Claim 9 is an independent claim from which claims 13-27 depend therefrom. Claim 9 is herein amended. Note that claim 9 is not herein amended for patentability reasons, but rather solely for clarification reasons. Applicants, respectfully, request that the amendment of claim 9 be entered since it does not raise new issues that would require further search and/or examination. Applicants submit that claim 9 was in allowable form as amended in the Response of July 18, 2005, and is especially allowable as amended herein.

The Office Action states that claims 9, 13-17, 21-22, and 27 stand rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al. (U.S. Pat. No. 6,215,852 B1).

The Office Action states that Rogers teaches an x-ray tube window comprising a cavity that is at least partially filled with a body formed of a phase change material in which coolant circulates therethrough. Applicants respectfully traverse. Applicants note that in the Office Action of May 31 it was admitted that Rogers failed to teach the limitations of a thermal exchange device that is coupled within an electron collector body and that reduces the temperature of the coolant passing through the thermal exchange device. The limitations of claim 9 are similar to the stated limitations. Claim 9 recites the limitations of an electron collector body having a cavity that is filled with a phase change material body. Coolant passes through the phase change material body. The phase change material body is a thermal exchange device.

The current Office Action states that the coolant fluid 110 of Rogers is a phase change material. Regardless of whether this is true, the coolant of Rogers is not a body in which coolant flows. The Office Action appears to be stating that Rogers teaches a coolant fluid that circulates through a coolant fluid, which is not sensible.

Clearly Rogers fails to teach or suggest the limitations of an electron collector body having a cavity that is filled with a phase change material body and of a coolant circulating through the phase change material body. In order for a reference to anticipate a claim the reference must teach or suggest each and every element of

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that claim, see MPEP 2131 and *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628. Therefore, since Rogers fails to teach or suggest each and every limitation of claim 9, it is novel, nonobvious, and is in a condition for allowance. Also, since claims 13-17, 21-22, and 27 depend from claim 9 and already allowed claims 1-5 and 8, that they too are novel, nonobvious, and are in a condition for allowance for at least the same reasons.

Claims 23-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers in view of Lu et al. (U.S. Pat. No. 6,430,263 B1).

Applicants submit that since claims 23-24 depend from claim 9 and already allowed claims 1-5 and 8, that they too are novel, nonobvious, and are in a condition for allowance for at least the same reasons.

Claim 25 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers in view of Marechal et al. (U.S. Pat. No. 6,390,187 B1).

Applicants submit that since claim 25 depends from claim 9 and already allowed claims 1-5 and 8, that it too is novel, nonobvious, and is in a condition for allowance for at least the same reasons.

Also, Applicants have shown in the July 18th Response that Marechal is clearly nonanalogous art. Thus, Marechal is not a valid reference upon which a claim rejection can be based.

Referring to MPEP 706.07, Applicants, respectfully, submit that this action has been improperly been made final. Applicants agree that under present practice a second or subsequent action may be made final even when the Examiner introduces a new ground of rejection as is necessitated by Applicants' amendment. However, Applicants are also aware that present practice does not sanction hasty or ill-considered final rejections. The Applicants have merely sought to define the patent protection to which they are justly entitled. The Applicants have previously and clearly amended the claims such that the claimed invention is not taught or suggested by the prior art, and in so doing they deserve the cooperation of the Examiner and should not be prematurely cut off in the prosecution. This is supported by the now allowed claims 3-5, 8, 28, and 29 and the fact that the Applicants feel that claim 9 has been misinterpreted and as such is only clarified

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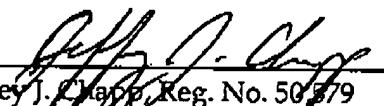
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herein to be consistent to that argued in the July 18th Response. The Applicants have responded promptly and have not resorted to technical or obvious subterfuges.

In light of the amendments and remarks, Applicants submit that all the rejections are now overcome. The Applicants have added no new matter to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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